

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

WRIT DIVISION SIX

STATE OF MISSOURI, ex rel.,)	No. ED97548
DAVID M. NOTHUM and)	
GLENETTE NOTHUM,)	
)	
Relators,)	
)	Writ of Prohibition
v.)	
)	
THE HONORABLE JOSEPH L. WALSH III,)	
Circuit Judge,)	
St. Louis County Circuit Court,)	
)	
Respondent.)	Filed: January 10, 2012

David Nothum and Glenette Nothum (collectively “Relators”) once again seek this Court’s writ of prohibition to prevent a judge (here, the Honorable Joseph L. Walsh, III, hereinafter “Respondent”) from compelling them to testify at a judgment debtors’ examination. Relators once again have asserted their privilege against self-incrimination as guaranteed by the Fifth Amendment to the United States Constitution and by Article I, Section 19 of the Missouri Constitution.

TRANSFER TO SUPREME COURT.

Writ Division Six Holds: We would find that Respondent exceeded his authority in ordering Relators to answer questions at the judgment debtors’ examination over their assertions of their privilege against self-incrimination. We would also find that Section 513.380 grants “use immunity” as clearly stated in that section, and not “transactional immunity” as determined by Respondent. However, due to the general importance of this issue, we transfer this matter to the Missouri Supreme Court pursuant to Rule 83.02.

Opinion by: Roy L. Richter, P.J.
Robert M. Clayton III, J., and Kurt S. Odenwald, C.J., concur

Attorney for Appellant: Norman W. Pressman, Kathryn M. Koch, Benjamin K. Westbrook,
Donald R. Carmody, John E. Hilton

Attorneys for Respondent: Jeffrey T. McPherson, Christopher R. LaRose

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED